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UNCLAS SECTION 01 OF 16 KIEV 000384

SIPDIS

DEPT PLEASE PASS TO USTR FOR KLEIN/MOLNAR
TREASURY FOR GAERTNER
USDOC FOR 4201/DOC/ITA/MAC/BISNIS
USDOC FOR 4231/ITA/OENIS/NISD/CLUCYCK

E.O. 12958: N/A

TAGS: [EINV](#) [EFIN](#) [ETRD](#) [ELAB](#) [KTDB](#) [PGOV](#) [UP](#)

SUBJECT: UKRAINE: INVESTMENT CLIMATE STATEMENT 2006

REF: 2005 STATE 202943

¶1. Below is text requested reftel of the 2006 Investment Climate Statement for Ukraine.

Begin Text:

Investment Climate Statement 2006 -- Ukraine

A.1. Openness to Foreign Investment

GOVERNMENT'S ATTITUDE TOWARDS FOREIGN INVESTMENT

When President Yushchenko took office in January 2005, he made improving the investment climate one of his top economic policy goals. This led to a number of new government initiatives, such as creation a State agency for investment and innovation and a number of investor councils chaired by the President. International investment companies rushed to take advantage of the improved mood and held several large-scale Ukrainian investment conferences in early 2005 both in Ukraine and abroad. The President and other high-level GOU officials spoke at many of these conferences, including the World Economic Forum's "Mini-Davos" roundtable held in Kiev in June 2005. In general, foreign investors reported increased GOU receptiveness to and understanding of investor concerns but few concrete improvements over the year. Government re-privatization plans and closure of the Special Economic Zones (discussed later) also made investors wary.

After eight years of decline following independence, the Ukrainian economy has been growing steadily since late 1999 but with declining rates of growth at the end of ¶2005. Ukraine's GDP grew 12.1% in 2004 and approximately 2.5% in 2005. Growth is expected to rebound somewhat in ¶2006. Over the past few years, Ukraine has liberalized its markets, reduced regulation, eliminated most licensing requirements, eliminated most restrictions on foreign exchange and begun the transformation of the agricultural sector from state-run farms to private agriculture. After years of hyperinflation and plummeting currency values, the national currency, the hryvnia, has been stable against the U.S. dollar for over four years. The National Bank allowed it to appreciate about 5% in early 2005 under pressure from international financial institutions, which claimed the currency was undervalued. Much remains to be done to achieve full economic liberalization. Ukraine's economy is still shackled by corruption, poorly developed rule of law, over-regulation and excessive government interference in what should be private business decisions.

Ukraine was not able to achieve its goal of entering the WTO in 2005. Yet, over the past year Ukraine made strong progress in its WTO accession, passing over a dozen pieces of important legislation to modernize its trade regime and signing 10 bilateral market access agreements. The legislation dealt with intellectual property rights for optical media, agricultural tariffs, insurance branching, auditing requirements, age-limits on imported buses and trucks, local content in automobile production, sunflower seed export duties, sanitary and phytosanitary measures, and technical barriers in trade. The GOU has not yet enacted legislation on export, restrictions on scrap metal and hides/skins, sugar quotas, product safety, bank branching, attorney's citizenship requirements and foreign ownership in broadcasting companies, despite repeated attempts to secure approval of the legislation.

Foreign investors continued to express little confidence in the Ukrainian court system. For many years, Ukrainian courts have tended to strike down or ignore contractual provisions for international arbitration or that assign legal responsibility for dispute resolution to a foreign court. The greatest number of investor complaints over the years have involved the State Tax Administration's (STA) selective enforcement of tax policy. Businesses have claimed that STA local and regional branches use investigative authority to advance political or business

interests. New leadership appointed by the government of President Yushchenko and anti-corruption efforts seem to have paid off in 2005, however, as the number of such complaints have dropped. Exporters have also been harmed in the past by the STA's failure to refund VAT payments on inputs in a timely fashion, but the STA improved its performance and settled most outstanding arrears in late 2005.

MAJOR LAWS/RULES AFFECTING FOREIGN INVESTMENT

Ukraine's law "On The Foreign Investment Regime" (1996) provides for equal treatment of foreign and Ukrainian-owned business with some restrictions in publishing and broadcasting. Foreigners are prohibited from participating in the manufacture of weapons or alcoholic spirits. A February 2000 law "On Removal of Discrimination in Taxation of Business Entities Founded with the Participation of Domestic Property and Funding" cancelled privileges granted to joint ventures by Ukrainian legislation with retroactive force. A January 2002 law "On Amending Certain Laws to Avoid Tax Evasion by Enterprises Founded with the Participation of Foreign Investors" cancelled all government and court decisions providing certain privileges to JVs (also with retroactive force). A January 29, 2002 Constitutional Court decision and a May 14, 2002 State Tax Administration letter caused the two laws to go into force and confirmed that tax privileges for joint ventures with foreign participation had been cancelled.

In early 2005, Ukraine lifted all tax and tariff exemptions to investors in Special Economic Zones (SEZ) in order to stop large-scale misuse of the zones. Investors who suffered from the cancellation criticized the abrupt cancellation of the privileges and the absence of any compensatory provisions, and they said these actions destabilized the investment climate. The GOU states it is developing a compensation mechanism for investors, but as of the end of 2005 has not announced one. U.S. investors both with planned and existing investment in the SEZs faced substantial losses from the elimination of customs and tax privileges.

Both a new Civil Code and a competing and incompatible new Commercial Code went into effect on January 1, 2004. Lawyers and judges continue to grapple with how to implement the two conflicting laws. Existing legislation is also not fully compliant with the codes. In 2005, the Ukrainian government proposed to annul the Commercial Code, but has not yet provided corresponding draft legislation to the parliament.

On October 25, 2001, the Ukrainian Parliament passed a Land Code. The Land Code provides for private ownership of land, facilitating the privatization of land for agricultural purposes, but also provides for a moratorium on agricultural land sale until January 1, 2008. Individuals will not be able to sell more than a total of 100 hectares of land between 2008-2015. The Land Code includes a 20-year moratorium on agricultural land sales to foreigners, though foreigners may own land plots on which company facilities have been built. Efforts to cancel the moratorium have failed in the Parliament (Rada), Ukraine's parliament. Such restrictions may delay the development of a functioning land market, but the overall picture is not entirely negative. There is an active market in land leasing. A July 2002, law "On Grain and the Grain Market in Ukraine," established investment, credit, tax and custom policies favorable for the grain market.

A new Customs Code went into effect January 1, 2004, codifying uniform customs procedures for all goods, specifying elements of customs procedures, and creating a mechanism for submitting a preliminary declaration for customs clearance for those who declare items on a regular basis. The Code widens the powers of the State Customs Service (SCS), granting its staff free access to the companies' premises where commodities subject to customs clearing are stored. It gives the SCS the power to review foreign trade companies' financial and economic performance. December 2005 amendments to the Customs Code and Single Customs Tariff brought Ukraine's customs regime almost fully into compliance with the WTO Customs Valuation and Rules of Origin Agreements.

On July 1, 2001 the law "On the Customs Tariff of Ukraine" took effect. Under this law only the Rada can introduce or change tariffs. The import tariff system of Ukraine has 21 sections, encompasses 97 groups of goods, and lists over 10,000 import duty rates. Between March and July 2005, the parliament passed three packages of amendments to the Customs Code of Ukraine to decrease tariff rates. These measures brought the normal average tariff rate down to 6.5 percent, or more specifically to 13.8 percent (down from 19.7 percent) for agricultural

goods and 4.4 percent (down from 8.3 percent) for industrial goods.

Ukraine's anti-monopoly committee implements anti-monopoly, competition, and consumer protection legislation under the March 2002 law "On Protection of Economic Competition." New companies and mergers/acquisitions face strict controls. Most investments, joint ventures with multiple partners, and share acquisitions require the committee's approval. The law requires that the Committee obtain a court order before entering private property. Those violating fair competition rules may be fined up to 10% of the prior year's turnover. If illegally gained profit exceeds 10% of income, up to three times the normal penalty can be collected. Legal experts have expressed concern over restrictions on who may appeal a Committee decision.

PRIVATIZATION AND FOREIGN PARTICIPATION

A transparent privatization law provides for the cash sale of majority shareholdings in state enterprises, open bidding procedures, and the use of independent financial advisers to assist Ukraine's State Property Fund (SPF). In practice, however, privatizations conducted between early 2000 and 2004 were non-transparent and arbitrary -- and were marked by heavy behind-the-scenes political interference. In the months leading to the 2004 presidential elections, the pace of privatization accelerated, including the highly controversial sale in May 2004 of Ukraine's largest steel mill, Kryvorizhstal, at the bargain price of USD 800 million. The tender requirements were written in such a way as to ensure the victory of Ukrainian businessmen close to then-President Leonid Kuchma, including his son-in-law, despite bids from a foreign investor of over double the amount paid.

In 2005, the new government of President Viktor Yushchenko undertook a review of such presumably corrupt past privatizations. After court decisions invalidated the 2004 sale of Kryvorizhstal, the GOU conducted a new transparent tender open to international participation and resold the enterprise to Mittal Steel in October 2005 for USD 4.8 billion. Thanks to this sale, which made up 97% of the USD 4.92 billion in privatization receipts through November 2005, these proceeds far surpassed the record USD 1.7 billion banked in 2004.

Despite this one success, the Government did not articulate a cogent policy for much of 2005 regarding other suspicious past privatizations, creating uncertainty among business owners and prospective investors. Various GOU officials floated contradictory proposals on the number of firms that might be re-privatized and the method for addressing previous questionable privatizations. Most outside observers believe the absence of a clear policy damaged the business climate and diminished investment. By the end of the year the GOU sought to repair the damage by calling for a new law that would respect property rights and giving amnesty to current owners who reach an amicable agreement with the Government to "pay up" the difference between the amount paid initially and the market value of the enterprise. Although the government launched no concrete policy initiatives, President Yushchenko declared in November that Kryvorizhstal would be the last repeat privatization. Courts, however, also declared in 2005 that the past privatization of a majority stake in another metallurgical concern, Nikopol Ferroalloy, was illegal. Nikopol Ferroalloy had been purchased by a consortium controlled by the son-in-law of then-President Kuchma. In January 2006, the Supreme Court upheld the decision of the lower courts that the past privatization was illegal. No shares had yet been transferred to the state, as the consortium continued with tactics to block the decision, including announcing in late January its intention to appeal to the European Court in Strasbourg.

Ukrainian law limits foreign participation in privatization of certain "strategic" enterprises (radio, television, energy, and insurance). Foreign shares of TV and radio broadcasting and publishing companies generally may not exceed 30%. Legislation that would increase this share to 35% -- a part of Ukraine's WTO accession efforts -- failed in the Rada. The Rada has authority to lift legislative restrictions on foreign ownership in specific instances and has done so on occasion.

PROCUREMENT

Ukraine is not a signatory to the WTO Agreement on Government Procurement but is negotiating WTO accession. A March 2000 government procurement law favors Ukrainian bidders on contracts to sell goods and services, affording a 10% differential to domestic bidders over foreigners in certain cases. Foreign investors also

complain about a lack of advance notice of rules and requirements for tenders, covert preferences in tender awards, hidden conditions on awards that are not defined in tender announcements, partiality towards domestic investors, and an inability to resolve grievances and disputes. For example, a U.S. company reported it planned to sue Ukraine's Ministry of Foreign Affairs after alleged irregularities in a December 2005 tender for a public relations contract, which a local company won. The American Chamber of Commerce in Kiev has reported that many firms are reluctant to pursue GOU procurement opportunities out of concern they will be unable to collect payment.

A law "On Production Sharing Agreements" (PSA), effective October 1999, provides a legal framework guaranteeing that the terms of agreements between foreign investors and the GOU for natural resources development cannot be changed once an investment is made. However, additional enabling legislation is needed in order to harmonize Ukrainian laws with the PSA's joint exploration and production license. Also needed are Cabinet of Ministers resolutions to establish special tax benefits envisioned by the PSA law, such as the amount of profit tax revenue the government will receive from the PSA producer.

A.2. Conversion and Transfer Policies

RESTRICTIONS ON CONVERTING/TRANSFERRING FUNDS

The April 1996 "Foreign Investment Law" guaranteed the "unhindered transfer" of profits, revenues, and other proceeds in foreign currency after taxes and other mandatory payments. By intervening in exchange markets, the National Bank of Ukraine (NBU) maintains a de facto peg of Ukraine's currency, the hryvnia, to the dollar. As of January 2006, the hryvnia traded against the U.S. dollar at UAH 5.05 to the dollar, 5% stronger than last year's 5.32 average, after the NBU decided to allow the appreciation and temporarily suspended its defense of the old rate.

While foreign investors may repatriate earnings, companies must obtain a license from the NBU for some operations. For repatriation of hard currency, each transaction over \$50,000 must be approved by the NBU. The NBU also charges a fee to review the transaction. In December 2005, the NBU announced its plans to replace the licensing system with registration and reserve requirements on transactions with hard currency. In view of increased hard currency inflows, the NBU on March 31, 2005, canceled its 1998 surrender requirement that exporters convert half of their hard currency revenues into hryvnias. Foreign exchange is readily available at market-determined rates, which generally do not vary greatly from the daily official exchange rate. In February 2005, the NBU lifted the 2% limitation on deviation of bank exchange rates from the official exchange rate, which had been in effect since October 2004. A pension fund tax is levied on transactions to purchase hard currency. In December the GOU reduced that tax from 1.5% to 1.2% of the amount of the transaction, effective January 1, 2006.

Foreign investors have complained of cumbersome NBU regulations (NBU 2005 Resolutions 280 and 281) requiring them to open both hard currency and hryvnia accounts in Ukrainian banks in order to bring money into or out of the country. Past investors seeking to liquidate and repatriate their investments must provide current documents from the financial institution that handled the original transaction confirming the provenance of the original funds. In cases where these financial institutions have since closed, investors have difficulty repatriating their money legally out of Ukraine. In an effort to discourage the inflow of short-term money, NBU resolution 291 in 2005 mandated that Ukrainian banks hold in reserve 20% of any loans from foreign lenders that have a maturity of 180 days or less. In response to complaints by investors, the NBU has formed a working group to revise these regulations.

Investors convert their earnings into foreign currency through commercial banks, which purchase foreign currency on the interbank market. Commercial banks may trade foreign currency in electronic form with other banks or participate in electronic currency trading at the Ukrainian Interbank Currency Exchange (UICEX). To purchase hard currency, companies must provide their banks with a copy of their foreign trade contracts. In an attempt to expedite purchases of hard currency, in March, 2005 the National Bank of Ukraine cancelled the requirement that companies obtain State Tax Administration permission to purchase hard currency. Commercial banks must announce their clients' intentions to sell on UICEX if the transactions exceeded USD

500,000. The law "On the Circulation of Promissory Notes" provides an opportunity for payments in foreign currency and issuance and circulation of promissory notes, in accordance with the 1930 Geneva Convention "Providing a Uniform Law for Bills of Exchange and Promissory Notes." Residents may transfer up to USD 600 abroad without opening a bank account. Illegal trade of hard currency is not a criminal matter but brings administrative penalties.

A.3. Expropriation and Compensation

Under the 1996 law "On the Regime of Foreign Investment," a qualified foreign investor is provided guarantees against nationalization, except in cases of national emergencies, accidents, or epidemics. International institutions have recommended that definitions of expropriation and nationalization in the foreign investment law and bilateral treaties be expanded to include indirect and creeping expropriation. Courts can determine whether owners of privatized enterprises failed to pay for an enterprise or to implement investment commitments in a privatization sale. Failure to pay or invest allows the GOU, with court permission, to revoke ownership and resell the property. The government's contradictory statements about what businesses might be subject to a review of past privatization (discussed in section A.1) had foreign investors concerned their property could be re-nationalized.

In the context of Ukraine's WTO accession, the GOU in 2005 eliminated less favorable treatment of enterprises with foreign investment with regard to the use of vouchers for VAT payments, and abolished local content requirements in the automobile industry.

A.4. Dispute Settlement

EXTENT AND NATURE OF INVESTMENT DISPUTES

The Embassy continues to provide advocacy on behalf of U.S. investors. For many years, investment disputes frequently have involved key problems with the investment climate such as the lack of adequate rule of law, fair and impartial dispute resolution mechanisms, enforcement of domestic court and international arbitration decisions. Another problem is poor corporate governance (inadequate protection for shareholder rights, inadequate disclosure, asset-stripping, and voting fraud). Dispute settlement remains weak. Most U.S. businesses consider the local and national court systems unpredictable and try to avoid them. Commercial contracts may permit the parties to use international arbitration courts to settle disputes. Though Ukrainian legislation recognizes international arbitration decisions, in practice such decisions are very difficult to enforce in Ukraine.

Corruption continues to lie at the heart of many investor disputes. Laws and regulations are vague, with considerable room for interpretation, providing officials at every bureaucratic layer ample opportunities for corruption. Foreign investors are often seen as competitors to local firms and their government "sponsors."

DESCRIPTION OF UKRAINE'S LEGAL SYSTEM

Ukraine has a civil law system relying on codes and separate legislative acts. The court system comprises the constitutional court, which interprets the Constitution and laws of Ukraine, and a system of courts of general jurisdiction. The courts of general jurisdiction are further divided into general courts, which handle civil, criminal, and administrative matters, and specialized commercial courts, which review business disputes, bankruptcy, and anti-monopoly cases. Both the general and commercial court systems feature a hierarchy of local and/or regional courts and appeals courts. The Supreme Court of Ukraine is the highest court in the system of courts of general jurisdiction.

The law "On the Judiciary," in force as of June 2002 creates four levels of courts -- local courts, courts of appeal, courts of cassation (higher specialized courts) and the Supreme Court. This law also establishes an independent judicial department, the State Judicial Administration, to manage the court system, with the exception of the Supreme Court, which is self-administered. The law did increase the independence of the judiciary; but it also in some cases increased the powers of the President over the judiciary. While the law envisioned the creation of a separate system of Administrative courts, this system is only now being set up. The Supreme Administrative Court started its work only in the fall of 2005. The Parliament adopted legislation in 2004, as well as an Administrative

Procedural Code adopted by Parliament on July 8, 2005, that should govern the organization and work of the lower administrative courts when they are created.

Currently, there are ongoing discussions within the parliament and the executive branch of government on how to strengthen rule of law and the independence of the judiciary. The newly created National Commission on Democracy and the Rule of Law has prepared the draft Concept of improvement of the judicial system and securing access to justice and the draft Recommendations for implementing a judicial reform in 2006.

ENFORCEMENT OF RIGHTS

Investors criticize Ukraine's legal system for continuing problems of burdensome procedures, unpredictability, political interference, corruption, and inefficiency. Even when they obtain favorable decisions, investors claim the decisions are rarely enforced. The enforcement responsibilities fall under the State Enforcement Service, which reports to the Ministry of Justice, but whose head is appointed by the Cabinet of Ministers.

As of September 2005, the procedure for recognizing and enforcing foreign court decisions is regulated by Section 8 of the Code of Civil Court Procedures of Ukraine, which replaced the 2001 law "On Acknowledgment and Execution in Ukraine of Decisions of Foreign Courts." In accordance with the Code, a foreign court decision is recognized and enforced in Ukraine if such recognition and enforcement is provided for in international treaties, the mandatory nature of which has been endorsed by the Rada, or based on mutual ad hoc agreement with a foreign state whose court has rendered a decision that is to be enforced in Ukraine.

The State Enforcement Service implements decisions rendered by foreign courts and arbitration tribunals in accordance with the law "On Enforcement Proceedings." A draft law "On Implementing Decisions and Applying Practices of the European Court for Human Rights" passed its first reading in the Rada on December 20, 2005. The second reading is expected for 2006. These measures show an encouraging trend toward conforming Ukraine's legal system to international norms.

COMMERCIAL LAW

A new Civil Code and a competing and incompatible Commercial Code both went into effect on January 1, 2004. Lawyers and judges are now grappling with how to implement the two conflicting laws. Despite heavy criticism of the Commercial Code by many GOU officials over the year, the Rada has as yet taken no action to amend or annul it. The government again announced in late 2005 that it planned to seek repeal of the Commercial Code. The Civil Code addresses private ownership protection and freedom of contract and entrepreneurship. It provides a unified framework for economic regulations alongside legal reforms such as the Land Code, a newly passed law "On Mortgages," a law "On Mortgage Backed Securities," a law "On Financial Leasing" and a law allowing for the establishment of Credit Information Bureaus, together with a draft Joint Stock Company Law (which has not yet been adopted). It also establishes rules for property relationships, including intellectual property, and creates a level playing field for entry and operation of business entities.

A 1999 bankruptcy law provides for debtor-led reorganization, a meaningful moratorium on payment and collection of pre-existing debt, and a tax forgiveness provision. The 1999 law provided thousands of heavily indebted industrial enterprises with an alternative to liquidation that did not exist under Ukraine's original 1992 bankruptcy law. Since then, many firms have reached amicable settlements with their creditors and established a workable schedule of debt forgiveness and repayment. Creditors protect their rights under the law by electing a creditors' committee, which is actively involved in the bankruptcy proceedings.

CORPORATE GOVERNANCE

Problems with corporate governance in Ukraine involve corporate ownership, shareholder rights, transparency, and disclosure. The law "On Companies" offers scant protection for minority shareholders against insider dealing, asset stripping, profit skimming, and share dilution. Corporate finance is restricted. Some examples of shareholder rights abuses include limited disclosure, capital restructuring without shareholders' consent, and shareholder voting fraud. Nevertheless, a Company Register that was established in 2004 improved transparency. A new "Joint Stock Company" law was first

drafted in 1998 to remedy the pitfalls of the current law by introducing sound corporate practices that meet international standards. It has failed repeatedly in parliament, despite increasing interest in the business community. In October 2005 the Cabinet of Ministers submitted a new version of the draft law on Joint Stock Companies. However, this draft has little support in the present Rada, because it eliminates the closed form of Joint Stock Company. This form of ownership allows many so-called "Red Directors" to control their companies as minority shareholders. It is likely that the new Rada will consider the October 2005 Joint Stock Company draft after the March 2006 parliamentary elections.

BINDING INTERNATIONAL ARBITRATION

Ukraine enacted an international commercial arbitration law in February 1994, which parallels commercial arbitration laws set forth by the United Nations Commission on International Trade Law. Ukraine is a member of the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitration Awards. Some investors have problems enforcing foreign arbitration awards in Ukraine. Foreign arbitral award enforcement procedures in Ukraine are regulated by a number of statutes and regulations, including the Section 8 of the Civil Procedural Code and a law "On Enforcement Proceedings." In early 2000 Ukraine ratified the Washington Convention, providing for use of the International Center for Settlement of Investment Disputes (ICSID), an internationally recognized mechanism for resolving investment disputes between investors and the GOU. The U.S.-Ukraine Bilateral Investment Treaty (BIT), signed in November 1996, recognizes arbitration of investment disputes before the ICSID.

A.5. Performance Requirements/Incentives

PERFORMANCE REQUIREMENTS

There are no known cases of performance requirements imposed on foreign investors other than those clearly spelled out in privatizations conducted via open tender. Ukraine has eliminated measures that conflicted with the WTO Agreement on Trade-Related Investment Measures (TRIMs) in the automobile industry and other sectors in the context of its accession efforts. Some potentially conflicting practices remain in the agricultural sector and in legal services, for example. Restrictions on imported raw cane sugar and minimum price regulation on domestic sugar beets and refined sugar may provide preferential treatment to the domestic sugar market. The law "On Auditing" was amended in July 2005 to remove nationality requirements for auditing services in Ukraine. Similar amendments to the law "On the Bar" to lift a nationality restriction in legal services failed repeatedly in the Rada.

INVESTMENT INCENTIVES

Ukraine modified its foreign investment law of 1996 to provide foreign investors a number of state guarantees, the most important being the unhindered and immediate repatriation of profits and stable regulations for the time of the investment. Foreign investors are exempt from customs duties for any in-kind contribution imported into Ukraine for the company's charter fund. Some restrictions apply and import duties must be paid if the enterprise sells, transfers, or otherwise disposes of the property.

VISA/WORK PERMIT REQUIREMENTS

According to Ukrainian Presidential Decree No. 1008 dated June 30, 2005 (with amendment dated August 18, 2005), U.S. citizens traveling to Ukraine on short-term tourist, business or private travel do not need a visa to enter Ukraine. Visas are still required of other categories of travelers including those who intend to study, reside, or work in Ukraine. Short-term travelers entering Ukraine under the auspices of this decree can stay in Ukraine up to 90 days. Any requests for extension of stay due to extenuating circumstances should be directed to the Ministry of Interior's Department of Citizenship, Immigration and Registration (formerly known as OVIR). Extensions are not automatic, however, and are valid only for continued presence in the country. It is not possible to depart Ukraine and return on the extension, nor can an adjustment to visa status be made from within Ukraine. U.S. citizens do not have to return to the U.S. to renew their visas -- they may apply for and pick up a visa at any Ukrainian Embassy outside of Ukraine. Most go to neighboring Poland, Germany, or the Czech Republic. All foreigners -- except those with permanent residency status -- are required to have a work permit to work in Ukraine. The laws of Ukraine "On Population Employment" and "On the Legal Status of Foreigners" define the

procedures for obtaining a permit at the State Employment Service. There is one exception: the Law "On Production Sharing Agreements," allows foreigners under such agreements to be hired without permits.

The Cabinet of Ministers Instruction No. 892, dated September 12, 2005, extended work permits from one year to the tenure of employment for foreign citizens working in managerial or specialized positions in Ukraine and individuals providing services without their commercial presence in Ukraine. Employers must notify employment centers, police and the State Committee for Border Protection three days before revoking contracts with foreign nationals.

Foreigners residing in Ukraine must register with the government. Effective July 1, 2002, foreigners entering Ukraine are registered automatically by the State Committee on Safeguarding Ukraine's Border at border checkpoints. Foreigners legally coming to Ukraine for short periods no longer need to register at Internal Affairs Ministry Offices.

A.6. Right to Private Ownership and Establishment

The Constitution of Ukraine guarantees the right to private ownership, including the right to own land. A new Land Code consistent with the Constitution was adopted on October 25, 2001. The Land Code provides for foreign ownership of non-agricultural land and clarifies the rights of foreign investors.

The major provisions of the Land Code address the right of individuals to own, buy and sell land. It classifies land into seven categories, based on potential use including agricultural, industrial and natural reserve lands. The mix of state control and ownership rights varies with each type of land. It is easier to own, buy, sell and mortgage industrial land than agricultural land. The Code forbids the sale of agricultural land until 2008, and restricts the land ownership of any one legal entity (Ukrainian citizen or Ukrainian-based business) to no more than 100 hectares until 2015. The Land Code prohibits foreigners from owning agricultural land. The creation of a legal Ukrainian-registered business to purchase and manage land in Ukraine is not prohibited. The Land Code codifies the state's right to oversee private land transactions via registration, the court system and dispute mediation and broad government/state rights to "influence" the land market. On June 5, 2003 the Rada adopted a new law on mortgages. The law allows the use of agricultural land as collateral and spells out foreclosure and eviction procedures. Implementation of the law may take several years. The U.S. Government via USAID sponsors a land titling initiative aimed at providing technical assistance both to reduce the cost of agricultural land titling and to provide direct support for the issuance of land titles. On December 23, 2004 the Rada adopted the law "On Warehouse Receipts" to expand lending to agriculture concerns using receipts as a collateral.

Ukraine's law "On Ownership" recognizes private ownership and includes Ukrainian residents, foreign individuals, and foreign legal entities among those entities able to own property in Ukraine. It permits owners of property (including foreign investors and joint ventures) to use property for commercial purposes, to lease property, and to keep the revenues, profits and production derived from its use. The law "On Ownership" is not comprehensive and mechanisms for the transfer of ownership rights are weak. Some difficulties have arisen when foreigners acquire majority control of enterprises, with the government or the current management in some cases continuing to exercise effective control of company decisions.

A.7. Protection of Property Rights

MORTGAGE

During the last few years, Ukraine's policymakers have launched many initiatives to develop a mortgage market, which has resulted in a strong increase in the number of mortgages and laid the legislative and administrative groundwork for a functioning mortgage market. In late 2002 Ukraine adopted a law on "Withholding Land Shares in Kind." In June 2003, a law "On Mortgages" was adopted. The GOU created the State Mortgage Institution (SMI) in October 2004 with authorized capital of UAH 50 million (USD 200 million), a liquidity facility largely aimed at putting downward pressure on lending rates by allocating capital efficiently. The 2006 budget allocated UAH 1 billion to issue state guarantees on loans to SMI. It is planned that the SMI will issue its first securities early in 2006. The use of mortgages in Ukraine still remains limited by the scarcity of issued titles and

limits on lending activity. However, apartments, houses, office buildings, other types of buildings, and dacha plots have secured mortgages. USAID helped create of a pledge registry, the first of its kind in the former Soviet Union, which applies to individuals' obligations with regard to movable property and tax liens. Though rudimentary, the registry is nationwide, providing a more transparent lending market for personal property.

INTELLECTUAL PROPERTY RIGHTS

Ukraine was the only country named a Priority Foreign Country in the 2002, 2003, 2004 and 2005 Special 301 reviews conducted by USTR. The United States withdrew Ukraine's benefits under the Generalized System of Preferences (GSP) program in August 2001 and imposed \$75 million worth of sanctions on Ukrainian imports on January 23, 2002. These latter sanctions, which affected a number of Ukrainian products, including metal, footwear, and chemicals, were lifted on August 30, 2005 after the Ukrainian Government secured passage of important amendments to the Optical Disc Licensing Law, which went into effect on August 2, 2005. USTR also announced in August 2005 that it would conduct an Out-of-Cycle Review (OCR) of Ukraine to assess Ukraine's implementation of the new amendments and its overall trend of enforcement since the time that sanctions were imposed. The OCR will determine whether Ukraine's Special 301 status should be upgraded from "Priority Foreign Country" and subsequently consider whether Ukraine's eligibility for Generalized System of Preferences (GSP) benefits should be reinstated. Enforcement has been improving and the new amendments enhanced law enforcement's role and lowered the threshold for imposing penalties and sanctions. However, Ukraine remains a major trans-shipment point, storage location, and market for illegal optical media produced in Russia and elsewhere, however, and needs to significantly improve its customs border enforcement to deal with these continuing problems.

Ukraine is an active member of the World Intellectual Property Organization and a signatory to a number of international agreements and conventions. As part of its ongoing efforts to negotiate accession to the WTO, Ukraine has adopted legislation, including a May 2003 Omnibus package, to bring its laws into compliance with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Some possible issues remain with Ukraine's treatment of foreign geographical indicators and test trial data. Ukraine is in the process of strengthening its legal protections for pharmaceutical test data that pharmaceutical companies must submit to government authorities to obtain marketing approval. Patent and trademark violations are common in Ukraine, and U.S. industries have reported widespread counterfeiting of pharmaceuticals and consumer products. The Ukrainian Ministry of Health reportedly does not check the validity of patents when it permits pharmaceutical sales in Ukraine. In one case, the Ministry of Health allowed a European company to register the same drug for which a U.S. company held a valid patent.

The State Department of Intellectual Property (SDIP) is responsible for the formulation and implementation of Ukraine's intellectual property policy. In order to increase IPR enforcement, the Ministry of Internal Affairs and the State Customs Service have also set up units to deal exclusively with IPR violations. These under-staffed units have difficulty dealing with the large number of IPR infringements. In many cases, the rights holder must actively engage with the Ministry of Internal Affairs or the State Customs Service to obtain enforcement. Trademarked and copyrighted goods must be registered for a fee (USD 400 for the first good for the first year) in Customs' rights holder database in order to be guaranteed protection. Optical discs, however, also receive protection under the import-licensing regime, so few recording or motion pictures companies bother to register. Generally low confidence in the Ukrainian judicial system has meant few enterprises have brought private lawsuits. Legal experts and government officials have called for the formation of a special patent court in Ukraine to adjudicate patent cases, but to date there has been no concrete action towards this end.

A.8. Transparency of the Regulatory System

TRANSPARENCY OF REGULATORY POLICIES

While there has been progress on deregulation, the number of regulations, required certificates, and inspection regimes in Ukraine still impose a significant regulatory burden on private enterprise. In response to new

presidential decrees No. 799 dated May 12, 2005 "On Liberalization of Business Activity and State Support of Entrepreneurship" and No. 901 dated June 1, 2005 "On Some Measures to Ensure Enforcement of State Regulatory Policy," the State Committee for Regulatory Policy and Entrepreneurial Activity (SCRPEA) undertook a review of regulatory acts. By the end of 2005 the Committee had reviewed 9340 regulatory acts, 52.8% of which it decided to cancel.

BUREAUCRATIC PROCEDURES

While the time and costs related to business registration have been reduced, the GOU still requires enterprises to obtain numerous permits to conduct business. On January 5, 2006 the law "On Permits' System in Economic Activity" entered into force. As a result of this law, more than a half of required permits have been cancelled and the number of locations for obtaining permits has increased six fold. The Yushchenko government also streamlined business registration procedures and now one can register business within two to three days instead of two to three weeks, as in the past. "One-stop Registration Shops" have been expanded nationwide. President Yushchenko also introduced a new "Single Window" for customs registration procedures.

LICENSING

Ukraine applies both activity and import licensing regimes. A Law "On Licensing Certain Types of Economic Activities" of June 2000 (and amended on January 17, 2002) provides which activities are subject to licensing. Licensing applies to nearly 60 goods and services and is meant for protection of human, animal or plant health, the environment, public morals, national security, or for prudential regulation of the financial sector. Businesspeople continue to cite burdensome activity licensing requirements as major impediments to commerce in Ukraine. Fees are described as high and compliance burdensome, particularly for telecommunications equipment. Import licenses are required for some goods, primarily pesticides, alcohol products, optical media production inputs, some industrial chemical products and equipment containing them, official foreign postage stamps, excise marks, officially stamped/headed paper, and checks and securities.

RULEMAKING/INSPECTIONS

Proposed draft laws and regulations are available on the Rada website for public review, but there is no formal procedure for submitting comments.

Current Ukrainian legislation envisages a mandatory financial inspection of a business entity per year and requires a minimum of 10 days notice. Non-financial inspections (i.e. taxes, fire safety, sanitation, etc.) can be burdensome and impediments to doing business in Ukraine.

CERTIFICATION/HEALTH AND SAFETY POLICIES

Technical standards and certification requirements are imposed on many imports. The certification body is the State Committee of Ukraine for Technical Regulation and Consumer Policy ("DerzhSpozhyvStandard"). Although Ukraine belongs to several international standardization bodies, such as the International Organization for Standardization (ISO), for many years it generally had not recognized foreign product certificates, even if they are issued in line with international standards, unless recognition is mandated through an international treaty signed by Ukraine. Standardization procedures can be lengthy, burdensome, and expensive; standards can be vague, inflexible, and subject to frequent changes.

Numerous certification bodies continue to operate independently without coordination or oversight. Local, regional, and municipal authorities often require additional documentation beyond that required by certification bodies. As of November 2005, DerzhSpozhyvStandard had a network of 109 accredited product certifying bodies for quality management systems, as well as about 780 testing laboratories throughout Ukraine. Moreover, appropriate resources, such as modern analytical equipment and reactants, are not available in most laboratories. Quality management systems are also needed to ensure testing is done within an acceptable margin of error. DerzhSpozhyvStandard's system includes 28 state centers for standardization, systematizing weights and measures, certification and 27 territorial departments for consumer protection. Companies seeking testing should first contact DerzhSpozhyvStandard.

Importers can apply for three types of certificates: a

certificate for a single batch of goods; a certificate for one year, which is valid for all imported goods during that year with one or two additional selective tests (this type of certification is the most common in Ukraine, covering 70% of issued certificates); and a certificate for 5 years, for which mandates inspection of production facilities.

Ukraine applies a range of sanitary and phytosanitary (SPS) measures, many of which do not appear to be consistent with an international, science-based approach to regulation. The certification and approval process is lengthy, duplicative, and expensive, with politics and corruption still often behind arbitrary application of regulations. Amendments to the law "On Quality and Safety of Food Products and Food Raw Materials," the law "On Veterinary Medicine" and to other laws, to bring Ukrainian legislation in compliance with requirements of the WTO Agreement On Sanitary and Phyto-sanitary Measures, passed at the end of 2005. Amendments to the law "On Plant Quarantine" remain outstanding.

For many years, Ukraine has worked to bring its standardization system into conformity with the European Standards System. The law "On Assurance of Conformity" is replacing mandatory certification for many types of products with assessment procedures in conformance with international standards and the "New Approach" directives of the European Union, including the principle of "presumption of conformity to standards." On August 1, 2002, the National Accreditation Body started operations to ensure the use of standards and procedures consistent with European Cooperation for Accreditation (ECA) policy.

A.9. Efficient Capital Markets and Portfolio Investment

BANKING

The Ukrainian banking system consists of the National Bank of Ukraine (NBU) and commercial banks. The NBU is responsible for monetary circulation, registration of commercial banks, and oversight of their activities.

The banking sector plays a minor role in Ukraine's economy. Bank capital is just over 6% of GDP. Total bank assets in Ukraine are about UAH 212.4 billion, with total loan assets of UAH 152.4 billion. Money lending and deposits grew at a fast 57% and 56% respectively in January-November, 2005. Despite rapid growth, bank deposits account for 28% of GDP, putting Ukraine in the 'poor' category in the standard rankings of deposits. Interest rates continued to decline from 17.9% in 2004 to 16.1% in 2005 making credit more accessible. On December 1, 2005, Rada amended the "Consumer Rights Protection" law in favor of borrowers that lifted the limitation on early loan repayment. Most banks have a high cost structure and as high net interest margins versus low operating profits. There are 164 banks operating in Ukraine, but a handful of banks dominate the market. The top ten banks control 58% of the loans outstanding and own 45% of the total capital of the system. As the volume of consumer lending doubled during 2005, the share of loans exceeding one year increased to 53% of the total loan portfolio of the banking system, up from 46% last year. Non-performing loans were registered at 2.3% of the total lending portfolio.

In January 2002, the law "On Banks and Banking Activity" eliminated discrimination against foreign banks. It entrusted the NBU with issuing banking licenses, and includes provisions to prevent money laundering. The NBU sets minimum capital requirements each year to be met by the banks by the year-end. Current minimum capital requirements range from UAH 14.4 million to UAH 57.74 million. Foreign licensed banks may carry out all the same activities as domestic banks, and there is no ceiling on their participation in the banking system. Foreign banks can operate via subsidiaries in Ukraine. The decision to allow foreign banks to operate via branch offices is pending before the Rada. Foreign banks increased their presence in Ukraine's banking sector during 2005 as the largest Ukrainian bank, "Aval," was purchased by the Austrian Raiffeisen bank in October and medium-size UkrSibbank by French BNP Paribas in December 2005.

In May 2002, most provisions of the law "On Systems of Payment and Money Transfer in Ukraine" came into effect, making payments more flexible and modern, including the use of electronic signatures. In July 2002, a law was passed which established legal principles for the provision of financial services and performance of regulatory and supervisory functions. Ukraine remains a cash economy, but the use of credit cards is on the rise. From January through September 2005, the use of credit cards increased by 84% and use of ATM cards increased

over 30%. Scams to bilk ATM users of their money are common, so the Embassy advises visitors not to use ATMs.

INSURANCE

Only insurance companies registered in Ukraine may carry out insurance operations. There is a lower minimum capital requirement for domestic insurance companies than insurance companies with foreign shareholders. Foreign insurance companies can invest in local companies, but to operate locally they are required to open branch offices. July 2005 amendments to insurance laws will give foreign companies the right to operate in Ukraine through affiliates five years after Ukraine accedes to the WTO.

CAPITAL MARKETS

Legal, regulatory, and financial disclosure systems for the securities market continue to lag behind international standards. Basic market infrastructure exists as does a competent regulator, but the legislative basis for capital market operations is weak. Rulings of the Securities and Stock Market Commission (SSMC) are advisory only and are not always followed by the courts. Investors continue to face low market confidence, high macroeconomic risk, transitional accounting standards, a lack of accurate company information, and inadequate protection of minority shareholders' rights. Deficiencies in regulations governing operation of registrars led to frequent cases of double registration of shares, resulting in low protection of shareholders' rights.

Ukrainian law allows for the following types of securities: stocks (registered, bearer, preferred, and common), government and municipal securities, general obligation bonds, corporate bonds, savings certificates, depository certificates of the National Bank promissory notes, bond coupons, loan certificates, bank orders and savings accounts.

According to the SSMC, last year there were 130 collective investment institutions, 780,863 securities traders, 138 custodians, 362 registrars, and 12 self-regulatory organizations (six of which are associations). Eight stock exchange offices were registered in Ukraine. A Ukrainian securities industry broker/dealer self-regulatory organization (SRO) and its nationwide electronic trading system (PFTS) is the largest marketplace with 86.23% of secondary onshore trading. Market capitalization was UAH 74 billion (USD 14.06 billion) in early 2005.

Principle laws, decrees, and regulations governing Ukraine's financial markets include: "Law on Securities and Stock Exchanges" (1991), law "On Business Associations" (1991), "Presidential Decree on Investment Funds and Investment Companies" (1994), "Law on State Regulation of Securities Markets" (1995), "Amendments to Law on Business Associations" (1996), law "On National Depository System" (1997), "Law on Accounting and Financial Reporting" (1999), "Bankruptcy Law" (1999) law "On Collective Investment Institutions" (2001), and the "Law on Financial Services" (2001).

A law "On Collective Investment Institutions" encourages the creation of mutual funds, introduces the idea of a licensed asset manager, regulates the establishment and operation of subjects of mutual investment, provides guarantees of ownership rights to securities, and protects rights of exchange market participants. Ukrainian Law provides a framework for the circulation of promissory notes in accordance with the Geneva Convention of 1930. The absence of a consolidated national depository complicates transparent and efficient transfer of ownership of securities. Although a 1997 law created a national depository, its function was taken over by other entities, and the Ukrainian government is currently considering reform options.

The law "On Economic Entities" allows for a "stable shareholder arrangement" by permitting operation of close-ended Joint-Stock Companies, which give existing shareholders priority rights to buy out any, new or existing, shares in any company being sold. The provision is used to protect against hostile takeovers, but its use is not seen as biased against foreign takeovers. The draft law on the Joint-Stock Companies, currently pending before the Rada, would cancel the provision.

A.10. Political Violence

A fraudulent presidential runoff election in November 2004 brought about the "Orange Revolution" in November and December 2004. The country saw massive nonviolent street demonstrations in Kiev and other major cities. Protesters blocked government offices and buildings. Some companies went on strike in support of the then

opposition candidate, Viktor Yushchenko, but the strikes lasted just a few days. Disruptions in normal business activities were minimal. The demonstrations were peaceful. The likelihood of future widespread politically inspired violence that would affect foreign property interests remains relatively low.

A.11.a Corruption

Corruption pervades all levels of society and government and all spheres of economic activity in Ukraine and is a major obstacle to foreign direct investment. Ukraine's new government made fighting corruption and smuggling top priorities, although much remains to be accomplished. However, corruption allegations at the highest levels led to a change in the Prime Minister and Cabinet of Ministers in September 2005. Ukraine did improve on Transparency International's Year 2005 Corruption Perception Index, which was published in March 2005. The country moved up to 107th place in 2005 on the list of the 158 countries from 122nd place out of 145 countries in 2004.

Corruption stems from a number of factors: a lack of institutional traditions of transparent decision-making and societal understanding of the importance of corporate governance and transparency. Low public sector salaries fuel corruption in local administrative bodies such as the highway police and tax administration as well as in the education system. Modest salaries in the medical system mean that the state guarantee of "free medical care" has been largely supplanted by a system of informal payments where patients are expected to make a "charitable donation" to receive treatment. In 2005, the GOU introduced legislation to increase local court judges' salaries significantly. High-level corruption ranges from misuse of government resources and money laundering to non-transparent privatization and procurement procedures. In short, corruption impacts the daily lives of Ukraine's citizens and important decisions taken at the state level.

Ukraine's prosecution of corruption is based on the law "On Combating Corruption," which was passed in October 1995. The law is rarely enforced, and on the rare occasions it is enforced, it is normally aimed at lower- or mid-level state employees.

Although government action is still limited, fundamental changes have taken place in the GOU's attitude towards corruption. Gone are the days when GOU officials refused to admit that corruption existed in Ukraine. Government and Rada officials now openly discuss the problem of corruption with USG contacts and with the press and public at large. Ukraine signed the UN Anticorruption Convention in December 2003 but has not yet ratified it. Ukraine is not party to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

RULE OF LAW

As discussed above, improvement of the ability of investors to protect their property and contractual rights is crucial to the investment climate. The judicial system needs to be reformed and its independence strengthened. Enforcement of court decisions is also lacking.

A.11.b. Bilateral Investment Agreements

BILATERAL INVESTMENT AGREEMENTS

The Bilateral Investment Treaty between the United States and Ukraine came into force on November 16, 1996. The following countries have also signed bilateral investment agreements with Ukraine: Austria (1996), Argentina (1995), Armenia (1994), Azerbaijan (1997), Belarus (1995), Bulgaria (1994), Canada (1994), Chile (1995), China (1992), Cuba (1995), Croatia (1997), the Czech Republic (1994), Denmark (1992), Egypt (1992), Estonia (1995), Finland (1992), France (1994), Georgia (1995), Germany (1993), Greece (1994), Indonesia (1996), Iran (1996), Israel (1995), Italy (1993), Hungary (1995), Kazakhstan (1994), Kyrgyzstan (1993), Latvia (1997), Lebanon (1996), Lithuania (1994), Macedonia (1998), Moldova (1995), Mongolia (1992), the Netherlands (1994), Poland (1993), Russia (1998), Slovakia (1994), Slovenia (1999), South Korea (1996), Spain (1998), Sweden (1995), Switzerland (1995), Turkmenistan (1998), Turkey (1996), UK (1993), Uzbekistan (1993), Vietnam (1994), Yugoslavia (2001), Yemen (2002), Saudi Arabia (2003), Albania (2004), Finland (2005), Panama (2005).

A.11.c. OPIC and Other Investment Insurance Programs

The Overseas Private Investment Corporation (OPIC) in 2004 resumed financing and insurance for projects in Ukraine. The U.S.-Ukraine OPIC Agreement was signed in Washington on May 6, 1992. OPIC is currently in negotiation with the GOU to recover monies paid out to a U.S. claimant whose investment was expropriated. OPIC will review its activity in Ukraine in the near future if progress toward resolution of this dispute is not made.

On July 20, 2002 the Board of the U.S. Export-Import bank opened up their facilities for short and medium-term (up to seven years) lending for commercial, and sub-sovereign projects. Ukraine is a member of the Multilateral Investment Guarantee Agency (MIGA). In 2005 MIGA issued an \$18.1 million guarantee to Raiffeisen Bank of Austria to provide coverage against the risks of transfer restriction and expropriation its subordinated shareholder loan to Joint Stock Commercial Bank Raiffeisenbank Ukraine.

A.11.d. Labor

LABOR AVAILABILITY

Ukraine has a well-educated and skilled labor force with nearly a 100% literacy rate. The official (registered) unemployment level is low, 2.9 percent as of November 2005, but these figures are misleading. Most experts agree that reported unemployment is understated: the real unemployment rate is closer to 8 percent.

WAGES

Wages in Ukraine are very low by Western standards but increased significantly over the past year. In November 2005, the nominal average monthly wage in Ukraine was UAH 896.58 (USD 178), up 39% from 644.27 (USD 128) in November 2004. The highest wages are in the financial and credit sectors while the lowest wages were paid to agricultural and public health workers.

MINIMUM WAGE

The minimum monthly wage was increased in 2005 to UAH 332 (up from UAH 237 in 2004). According to Ukrainian legislation, the minimum wage is adjusted whenever consumer price increases reach 5%. The 2006 state budget stipulated further gradual increases of the minimum wage to UAH 350 as of January 1, to UAH 375 on July 1, 2005 and to UAH 400 on December 1 2006. The GOU announced that by 2007 the minimum wage in the country would reach the subsistence level.

LABOR/MANAGEMENT RELATIONS

Ukrainian workers are generally accustomed to "top-down" management practices and therefore usually do not demonstrate initiative. A younger, more independent-minded generation is slowly moving into the workforce, and it is becoming easier to find professional personnel who function independently.

Although investors may encounter government resistance to trimming the work force to an efficient level, across-the-board demands to maintain employment levels are disappearing. Ukrainian enterprises often still maintain much of the social infrastructure of their immediate community (schools for local children, cafeterias, and medical facilities). While many local officials are willing to work with businesses to identify social services that an enterprise must support, such arrangements should be clearly spelled out before investments are started.

A.11.e. Foreign Trade Zones/ Free Ports

As of September 2005, there were 11 Free Economic Zones (FEZs) and 9 priority development territories (PDT). A law "On the Amendments to 2005 Budget of Ukraine" dated March 23, 2005, cancelled import duty exemptions and other benefits to FEZs that had been meant to encourage investment and production of goods for export. The IMF and the World Bank had repeatedly expressed concern about the zones, strongly supported the elimination of tax exemptions, and urged the GOU to resist pressures to reopen the tax loopholes closed in the 2005 budget amendments. In cases of foreign direct investment, where the conditions for the privileges had been met by the investing firms, the IMF and the World Bank suggested that the GOU determine whether compensation may be due to some investors. President Yushchenko reported the GOU was working on the development of such compensation mechanisms, but none had been put in place by the end of 2005.

FREE PORTS

Porto-Franco FEZ in Odessa Port was a free port until all FEZs' privileges were cancelled by the 2005 budget. In total, Ukraine has 20 seaports and 10 river ports located on the Black Sea, the Sea of Azov, and the Danube, Yuzhniy Bug and the Dnipro rivers. They are currently under the authority of the Ministry of Transportation's Department of Sea and River Transport. All seaports are state-owned with the exception of a small port that belongs to the Mykolayiv Alumina Plant. All river ports are open or closed joint-stock companies.

A.11.f. Foreign Direct Investment Statistics

FOREIGN DIRECT INVESTMENT

According to Ukraine's State Statistics Committee, foreign investment in Ukraine grew by 10.8% from January through September 2005. As of January 1, 2005, the stock of FDI in Ukraine was USD 8.35 billion, which is USD 177 per capita, one of the lowest levels of FDI in the states of the former Soviet Union. Annual FDI in Ukraine's neighbor, Poland, was nearly 5 times as high. Over nine months of 2005, foreign direct investment grew by over USD 932.2 million to USD 9.53 billion as of October 1, 2005, which is USD 202 per capita. During this period USD 1.32 billion in foreign investment entered Ukraine while USD 250 million were withdrawn. Mittal Steel's October 2005 purchase of the Kryvorizhstal Steel Mill represented USD 4.8 billion in FDI in Ukraine.

FDI BY COUNTRY

In all, 117 countries invested in Ukraine. As of October 1, 2005 Ukraine's major investors included: Cyprus (15.3%), the United States (12.8%), the United Kingdom (11.0%), Germany (6.6%), the Netherlands (6.2%), Virgin Islands (7.4%), Russia (5.8%).

FDI BY INDUSTRY SECTOR DESTINATION

Over the first 9 months of 2005, 17.4% of FDI went to domestic trade: 12.2% -- to food processing, 8.8% -- to real estate, 7.6% -- to the financial industry, 7.2% -- to machine-building, 5.3% to the chemical industry.
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